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5 **UNITED STATES DISTRICT COURT**
6 **DISTRICT OF NEVADA**

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8 S. PARKER CONSTRUCTION, INC.,) Case No. 2:08-cv-01439-JCM-GWF
9 Plaintiff,)
10 vs.)
11 SUNTEX HOMES, LLC, *et al.*,) **ORDER**
12 Defendants.) Motion to Strike and Enter Default (#61)
13

14 This matter is before the Court on Plaintiff S. Parker Construction, Inc. and Third-Party
15 Defendants Sean Barry, Shane Barry and Scott Barry's Motion to Strike the Answers of Defendants
16 SunTex Homes, LLC, Sierra Ridge Ventures, LLC and Nu-Co-BB-I, LLC and Motion to Enter Defaults
17 and Strike Sierra Ridge Ventures, LLC's Counterclaim and Third-Party Complaint (#61), filed July 9,
18 2010.

19 Movants state that Defendants SunTex Homes, LLC, Sierra Ridge, LLC and Nu-Co-BB-I, LLC
20 have not participated in this litigation since their former counsel moved to withdraw as counsel in May
21 2008. (*Id.*) Since that time, the three limited liability company defendants have been without counsel
22 and represented themselves *in proper* person in this action. Citing that a corporation may only appear
23 in federal court through licensed counsel, *U.S. v. High Country Broad. Co., Inc.*, 3 F.3d 1244, 1245 (9th
24 Cir. 1993), the movants argue that the Court should strike the Defendants' answers and enter default
25 because Defendants have been without representation for over two years. (#61).

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Upon review of the record in this action, the Court is unable to locate any documents related to the withdraw of counsel for Defendants Suntex Homes, LLC, Sierra Ridge, LLC and Nu-Co-BB-I, LLC in May 2008. As a result, the Court is unable to determine if the parties in this matter were provided with addresses where Defendants Suntex Homes, LLC, Sierra Ridge, LLC and Nu-Co-BB-I, LLC could be served pleadings related to this case. Plaintiff has not provided proof that the present motion to strike and enter default has been served upon Defendants Suntex Homes, LLC, Sierra Ridge, LLC and Nu-Co-BB-I, LLC. (*See* #61). Accordingly,

IT IS HEREBY ORDERED that Plaintiff S. Parker Construction, Inc. and Third-Party Defendants Sean Barry, Shane Barry and Scott Barry's Motion to Strike the Answers of Defendants Suntex Homes, LLC, Sierra Ridge Ventures, LLC and Nu-Co-BB-I, LLC and Motion to Enter Defaults and Strike Sierra Ridge Ventures, LLC's Counterclaim and Third-Party Complaint (#61) is **denied without prejudice**. Movants may renew the present motion upon proof of service of the motion on Defendants Suntex Homes, LLC, Sierra Ridge Ventures, LLC and Nu-Co-BB-I, LLC or upon demonstration that, after diligent efforts, the movants cannot locate Defendants for the purpose of service.

IT IS FURTHER ORDERED that the hearing on this matter presently scheduled for Tuesday, August 31, 2010 at 10:30 a.m. is **vacated**.

DATED this 26th day of August, 2010.

George Foley Jr.
GEORGE FOLEY, JR.
United States Magistrate Judge